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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,581	01/27/2004	Akio Uchiyama	17406	3837

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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/766,581	Applicant(s) UCHIYAMA, AKIO	
	Examiner Matthew J Kasztejna	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-7, 9-16, 18-19 and 21-24 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent Application Publication No. 2002/0103417 to Gazdzinski.

In regards to claims 1 and 11, Gazdzinski discloses a capsule medical device 300 inserted into a body cavity, comprising: a receiving device 1027 for receiving data from outside the capsule medical device by means of radio communications (see Paragraph 0038); and a storage device 1026 wherein storage data stored therein can be rewritten on the basis of the data received by the receiving device (see Paragraph 0015). A flash memory of the digital signal processor may be modified by way of program data transmitted to the probe via the data transfer sub-circuit.

In regards to claim 2, Gazdzinski discloses a capsule medical device wherein the storage device 1026 is a storage device in which the storage data is not erased, even when the power supply is switched off (see Paragraph 075).

In regards to claims 3 and 12, Gazdzinski discloses a capsule medical device wherein the capsule medical device has a sensor 1010; and the sensor operates on the basis of information stored in the storage device (see Paragraph 0067).

In regards to claims 4, 6, 13 and 15, Gazdzinski discloses a capsule medical device wherein the capsule medical device has an image-acquiring device 1010 being a CCD sensor; and the image-acquiring device operates on the basis of information stored in the storage device (see Paragraph 0067).

In regards to claims 5 and 14, Gazdzinski discloses a capsule medical device wherein the image-acquiring device has an illumination device 1014; and the illumination device operates on the basis of information stored in the storage device (see Paragraph 70).

In regards to claims 7 and 16, Gazdzinski discloses a capsule medical device wherein the image-acquiring device has an image data-compressing device; and the image data-compressing device operates on the basis of information stored in the storage device (see Paragraph 0015).

In regards to claims 9-10 and 18-19, Gazdzinski discloses a capsule medical device having a medicine discharge device or a specimen recovery device, operated on the basis of information stored in the storage device (see Paragraph 0076).

In regards to claims 21-24, the apparatus of Gazdzinski is considered to be inherently capable of performing the recited method claims (see paragraph 0088).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0103417 to Gazdzinski in view of U.S. Patent Application Publication No. 2004/0106849 to Cho et al.

In regards to claims 8 and 17, Gazdzinski discloses a capsule medical device 300 inserted into a body cavity, comprising: a receiving device 1027 for receiving data from outside the capsule medical device; and a storage device 1026 wherein storage data stored therein can be rewritten on the basis of the data received by the receiving device but is silent with respect to wherein the capsule medical device has a force acquiring device; and the force acquiring device operates on the basis of information stored in the storage device. Cho et al. teaches of an analogous multi-functional, bi-directional communication capsule for endoscopy further comprising a pressure sensor 100 on the external surface of the capsule body (see Fig. 3). It would have been obvious to one skilled in the art at the time of the invention to include a pressure sensor on the apparatus of Gazdzinski in order to measure the inner pressure site of the patient's body as taught by Cho et al.

3. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0103417 to Gazdzinski in view of U.S. Patent No. 6,709,387 to Glukhovsky et al.

In regards to claim 20, Gazdzinski discloses a capsule medical device but is silent with respect to the capsule device having a calculating device for generating transmission information that is transmitted from the external device to the capsule medical device, on the basis of data transmitted by the capsule medical device and

Art Unit: 3739

received by the external device. Glukhovsky et al. teach of an analogous in vivo camera system that has an imager which can have its frame capture rate varied. It also includes at least one sensor for measuring a physical property relatable to the motion of the camera system, a data processor for determining a frame capture rate after receiving data from the sensor and a controller for supplying the determined frame capture rate to the imager (see Col. 2, Lines 21-32). It would have been obvious to one skilled in the art at the time the invention was made to a calculating device in the apparatus of Gazdzinski to generate transmission information on the basis of data transmitted by the capsule medical device and received by the external device to provide a surgical capsule whose functions are based upon physical measurements transmitted outside the body as taught by Glukhovsky et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,632,175 to Marshall

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK

MK

2/1/05


BEVERLY M. FLANAGAN
PRIMARY EXAMINER